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9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 DELMAR L. HARDY,
15 Defendant.

Case No. 3:16-cr-00006-MMD-VPC

GOVERNMENT’S UNOPPOSED MOTION
TO DISMISS COUNT FIVE OF THE
INDICTMENT AND [PROPOSED] ORDER

16
17 United States of America, by and through its attorneys, Dayle Elieson, United States
18 Attorney for the District of Nevada, James E. Keller, Assistant United States Attorney, and Lee
19 Langston, Trial Attorney, United States Department of Justice Tax Division, hereby moves to
20 dismiss Count Five of the Indictment, charging a violation of 26 U.S.C. § 7212(a), one of the four
21 counts of which Defendant Delmar Hardy was convicted by a jury at trial in the above-referenced
22 case.

23 This motion is unopposed and timely in light of the recent Supreme Court decision in
24 *Marinello v. United States*, 584 U.S. ____ (No. 16-1144) (Mar. 21, 2018).

1 **CONCLUSION**

2 Wherefore, the government respectfully requests that this Court grant this motion to
3 dismiss Count Five of the Indictment, charging a violation of 26 U.S.C. § 7212(a) against
4 defendant Delmar Hardy.

5 DATED: April 6, 2018.

Respectfully submitted,

6 DAYLE ELIESON
United States Attorney

7 s/ James E. Keller
8 JAMES E. KELLER
Assistant United States Attorney


9 s/ Lee Langston
10 LEE LANGSTON
Trial Attorney
11 United States Department of Justice
Tax Division
12

13 **ORDER**

14 Based upon the foregoing unopposed motion of the government, and good cause
15 appearing, IT IS SO ORDERED that Count Five of the Indictment, charging a violation of 26
16 U.S.C. § 7212(a) against defendant Delmar Hardy, is hereby DISMISSED.

17 IT IS SO ORDERED.

18 Dated: April 6, 2018

19 
HON. MIRANDA M. DU
UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing GOVERNMENT’S UNOPPOSED MOTION TO DISMISS COUNT FIVE OF THE INDICTMENT AND [PROPOSED] ORDER was electronically filed and that service will be accomplished via the Court’s CM/ECF system.

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DATED: April 6, 2018.

s/ James E. Keller
JAMES E. KELLER